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Mr. Gary A. Fennell

Boca Raton, Florida 33431-5926

Dear Mr. Fennell:

Thank you for contacting me with a question regarding your troubles with the Internal Revenue Service (IRS). While responding as best I can, please understand that I am not giving any legal advice. I would strongly advise you to seek counsel on this matter.

U.S. Code, Title 26, Subtitle F, Chapter 64, Subchapter D Part II, Section 6331 (a) states:

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

This particular provision does not appear to extend to private sector employees. If a form was given to an employer that omitted section (a), this form could be considered misleading.

I hope that this is helpful to you. Again you may wish to seek help from an attorney or tax professional.

Sincerely,

E. Clay Shaw, Jr.
Member of Congress